

REMARKS

Claims 1-317 were previously cancelled. Applicant amends claims 318-338 and adds new claims 339-357. Thus, claims 318-357 are pending and under current examination.

I. REJECTION UNDER 35 U.S.C. § 112, ¶ 2

Applicant respectfully traverses the rejection of claims 318, 319, and 334 under 35 U.S.C. § 112, ¶ 2, as allegedly being indefinite. (See Office Action at p. 2.) Specifically, the Office contends that “[i]t is unclear what is meant by establishing a network connection.” (Id.) Applicant respectfully submits that the meaning of “establishing a network connection” is clear in view of the specification (paragraph [0070], for example, explains that “[c]ommunication, such as a notice or the like, may be displayed in a variety of ways. Internet and other links can be established so that an operator need not be physically attending to the sample process system while interacting with it.) Thus, “establishing a network connection” may include establishing a physical connection, as suggested by the Office, or a remote connection, and does not require programming the stainer.

The Office Action also states that “it is unclear how or what is used to send and receive responses.” (Office Action, p. 2.) Without acquiescing to the rejection, and solely to facilitate prosecution, claim 318 is amended herein to recite the phrase “wherein operations are performed in response to instructions provided by at least one controller.”

Applicant also amends claims 319 and 334 in accordance with the Office’s requirements. Thus, Applicant submits that the currently amended claims are definite

and respectfully requests that the Office withdraw the rejection of claims 318, 319, and 334 under 35 U.S.C. § 112, ¶ 2.

II. REJECTION UNDER 35 U.S.C. § 112, ¶ 1

Applicant respectfully traverses the rejection of claims 318-338 under 35 U.S.C. § 112, ¶ 1, as allegedly failing to comply with the enablement requirement. (See Office Action at p. 3.) Without acquiescing to the rejection, and solely to facilitate prosecution, Applicant amends claims 318-338 in response to the Office's rejections. Accordingly, Applicant submits that the currently amended claims comply with the enablement requirement and respectfully requests that the Office withdraw the rejection of claims 318-338 under 35 U.S.C. § 112, ¶ 1.

III. REJECTION UNDER 35 U.S.C. § 102

Applicant respectfully traverses the rejection of claims 318-338 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent Application Publication No. 2002/0110494 to Lemme et al. ("Lemme"). (See Office Action at pp. 4-6). Without acquiescing to the rejection, and solely to facilitate prosecution, independent claim 318 is amended herein to recite, in part, "wherein operations are performed in response to instructions provided by at least one controller, wherein the stainer network includes more than one controller located within the stainer network, and wherein the stainer network connects to controllers located outside the stainer network via a bridge."

Lemme fails to teach or suggest the combination recited in amended claim 318. *Lemme* teaches a method and apparatus for an automated biological reaction system. (see Abstract). However, *Lemme* is silent with respect to a "bridge" and a "stainer

network," and therefore cannot teach or suggest at least "wherein the stainer network connects to controllers located outside the stainer network via a bridge," as recited in claim 318. Accordingly, *Lemme* cannot anticipate the instantly claimed invention because it fails to expressly or inherently teach at least each and every limitation set forth in the currently amended claims. (See M.P.E.P. § 2131, 8th Ed., July 2008 Rev.)

For at least these reasons, Applicant respectfully requests that the Office withdraw the rejection of claims 318-338 under 35 U.S.C. § 102(b).

III. NEW CLAIMS 339-357

Applicant notes that each and every limitation of new independent claim 339 was previously presented in claims 318, 321, or 322. Accordingly, no new matter is presented in new claim 339. *Lemme*, which the Examiner applied to reject claims 318, 321, and 322 under 35 U.S.C. § 102(b), fails to teach or suggest the combination recited in claim 339. That is, *Lemme* is silent with respect to at least "sending commands to the at least one stainer over the network connection and performing one or more of the steps of: relaying commands to the at least one stainer, and relaying commands and queries to a database associated with the plurality of stainlers from a laboratory information system, wherein the database comprises information including status information on stainlers, slides, consumables, and treatment protocols associated with the plurality of stainlers[,]" as required by claim 339. Independent claim 339 is therefore allowable, and dependent claims 340-357 are allowable at least by virtue of their dependence from independent claim 339.

IV CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: _____

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